

FEDERAL  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
BRUNSWICK DIVISION**

2005 APR 26 PM 10:10

RICHARD A. RUDOLPH, JR.

Petitioner,

v.

CIVIL ACTION NO.: CV205-050

WILLIAM SMITH, Sheriff, and  
JAMES DONALD, Commissioner,  
Georgia Department of Corrections,

Respondents.

**O R D E R**

Respondent filed a Motion to Dismiss Petitioner's action which was brought pursuant to 28 U.S.C. § 2254, asserting that Petitioner has failed to exhaust his available state remedies. Petitioner has filed a response.

"An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State,...." 28 U.S.C. § 2254(b)(1)(A) "An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented." 28 U.S.C. § 2254(c). It is obvious that this petition contains unexhausted claims.

Accordingly, the petition is **DISMISSED**, without prejudice. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 24 day of June, 2005.

*Anthony D. Alaimo*  
JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

**United States District Court**  
***Southern District of Georgia***

RUDOLPH

)

vs

) CASE NUMBER CV205-50

SMITH, ET AL

)

DIVISION BRUNSWICK

The undersigned, a regularly appointed and qualified deputy in the office of the Clerk of this district, while conducting the business of the Court for said division, does hereby certify the following:

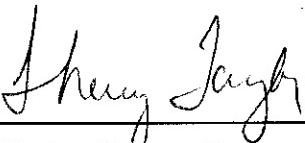
1. Pursuant to the instructions from the Court and in the performance of my official duties, I personally placed in the United States Mail a sealed envelope, and properly addressed to each of the persons, parties or attorneys named below; and
2. That the aforementioned enveloped contained a copy of the document dated 6/24/05, which is part of the official record of this case.

Date of Mailing: 6/24/05

Date of Certificate  same date, or \_\_\_\_\_

Scott L. Poff, Clerk

By:

  
Sherry Taylor, Deputy Clerk

Name and Address

Jason Fisher

Brent Green

Richard Rudolph Jr., EF536540/1145064, Camden Co. Public Safety Complex, P.O. Box 520, Woodbine, GA 31569

- Copy placed in Minutes  
 Copy given to Judge  
 Copy given to Magistrate